

105TH CONGRESS  
1ST SESSION

# S. 538

To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 9, 1997

Mr. CRAIG (for himself and Mr. KEMPTHORNE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. CONVEYANCE OF FACILITIES.**

4       (a) DEFINITIONS.—In this section:

5               (1) BURLEY.—The term “Burley” means the  
6       Burley Irrigation District, an irrigation district or-  
7       ganized under the law of the State of Idaho.

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1           (2) DIVISION.—The term “Division” means the  
2       Southside Pumping Division of the Minidoka  
3       project, Idaho.

4           (3) SECRETARY.—The term “Secretary” means  
5       the Secretary of the Interior.

6       (b) CONVEYANCE.—

7           (1) IN GENERAL.—The Secretary shall, without  
8       consideration or compensation except as provided in  
9       this section, convey to Burley, by quitclaim deed or  
10      patent, all right, title, and interest of the United  
11      States in and to the withdrawn and acquired lands,  
12      easements, and rights-of-way of or in connection  
13      with the Division, together with the pumping plants,  
14      canals, drains, laterals, roads, pumps, checks,  
15      headgates, transformers, pumping plant substations,  
16      buildings, transmission lines, and other improve-  
17      ments or appurtenances to the land or used for the  
18      delivery of water from the headworks of the South-  
19      side Canal at the Minidoka Dam and reservoir to  
20      land in Burley, including all facilities used in con-  
21      junction with the Division (including the electric  
22      transmission lines used to transmit electric power  
23      for the operation of the pumping facilities of the Di-  
24      vision and related purposes for which the allocable  
25      construction costs have been fully repaid by Burley).

1           (2) COSTS.—The first \$80,000 in administra-  
 2           tive costs of transfer of title and related activities  
 3           shall be paid in equal shares by the United States  
 4           and Burley, and any additional amount of adminis-  
 5           trative costs shall be paid by the United States.

6           (c) WATER RIGHTS.—

7           (1) TRANSFER.—The Secretary shall transfer  
 8           to Burley, through an agreement among Burley, the  
 9           Minidoka Irrigation District, and the Secretary, in  
 10          accordance with and subject to the law of the State  
 11          of Idaho, all natural flow, waste, seepage, return  
 12          flow, and ground water rights held in the name of  
 13          the United States for the benefit of, and for use on  
 14          land within, the Burley Irrigation District.

15          (2) ALLOCATION OF STORAGE SPACE.—The al-  
 16          location to Burley of storage space in Minidoka Res-  
 17          ervoir, American Falls Reservoir, and Palisades Res-  
 18          ervoir, in accordance with Burley Contract Nos. 14–  
 19          06–100–2455 and 14–06–W–48 is affirmed, subject  
 20          to the obligation of Burley to continue to assume  
 21          and satisfy its allocable costs of operation and main-  
 22          tenance associated with the storage facilities oper-  
 23          ated by the Bureau of Reclamation.

24          (d) PROJECT RESERVED POWER.—

1           (1) IN GENERAL.—The Secretary shall continue  
2       to provide Burley with a permanent right to project  
3       reserved power from the Minidoka Reclamation  
4       Power Plant, Palisades Reclamation Power Plant,  
5       Black Canyon Reclamation Power Plant, and Ander-  
6       son Ranch Reclamation Power Plant at the cost of  
7       production and delivery to Burley in accordance with  
8       understandings and commitments made by the Sec-  
9       retary in acquiring the plants, the reclamation laws,  
10      and contracts for electric power in existence of the  
11      date of enactment of this Act.

12          (2) RIGHT OF FIRST REFUSAL.—If the United  
13      States decides to transfer out of Federal ownership  
14      title to the Minidoka Power Plant or Dam, the Sec-  
15      retary shall grant to entities entitled to storage  
16      water in Lake Walcott (the reservoir created by  
17      Minidoka Dam) under spaceholder contracts with  
18      the United States a right of first refusal to acquire  
19      the power plant or dam and related facilities at such  
20      reasonable cost and subject to such terms and condi-  
21      tions as may be agreed on by the spaceholders and  
22      the Secretary.

23          (e) RIGHT OF JOINT USE.—Burley shall continue to  
24      recognize the right of Minidoka Irrigation District to the  
25      joint use of the gravity portion of the Southside Canal

1 being transferred to Burley, subject to compliance by the  
 2 Minidoka Irrigation District with the terms and conditions  
 3 of a contract between Burley and Minidoka Irrigation Dis-  
 4 trict, and any amendments or changes made by agreement  
 5 of the irrigation districts.

6 (f) LIABILITY.—

7 (1) IN GENERAL.—Effective on the date of con-  
 8 veyance of the lands, easements, and rights-of-way  
 9 under subsection (b), the United States shall not be  
 10 held liable by any court for damages of any kind  
 11 arising out of any act, omission, or occurrence relat-  
 12 ing to the conveyed lands, easements, and right-of-  
 13 way, except for damage caused by an act of neg-  
 14 ligence or other tortious conduct committed by the  
 15 United States or by its employees, agents, or con-  
 16 tractors of the United States before the conveyance.

17 (2) NO INCREASE IN LIABILITY.—Paragraph  
 18 (1) does not increase the liability of the United  
 19 States beyond that currently provided in chapter  
 20 171 of title 28, United States Code (commonly  
 21 known as the “Federal Tort Claims Act”).

22 (f) COMPLETION OF CONVEYANCE.—

23 (1) IN GENERAL.—The Secretary shall complete  
 24 the conveyance under subsection (b) (including such  
 25 action as may be required under the National Envi-

1       ronmental Policy Act of 1969 (42 U.S.C. 4321 et  
2       seq.)) not later than 2 years after the date of enact-  
3       ment of this Act.

4               (2) DEFAULT.—If the conveyance is not com-  
5       pleted by January 1, 2000, through no fault of Bur-  
6       ley—

7                       (A) the right, title, and interest of the  
8       United States described in subsection (b)(1) are  
9       conveyed to Burley on that date by operation of  
10      law; and

11                      (B) the Secretary shall provide evidence of  
12      the conveyance at the request of Burley.

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